

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

HAROLD PHILLIP AMOS,

Petitioner,

v.

CIVIL ACTION NO. 2:09-cv-01379
(Criminal No. 2:06-cr-00086)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is the petitioner's Motion to Vacate, Set Aside or Correct Sentence [Docket 96], filed pursuant to 28 U.S.C. § 2255. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court deny the petitioner's § 2555 motion.

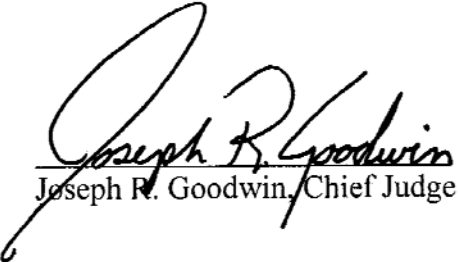
The petitioner timely filed written objections to the Magistrate Judge's findings of fact and recommendation. Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they are without merit. Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge, and **DENIES** the petitioner's § 2255 motion.

Furthermore, the court **DENIES** a certificate of appealability under 28 U.S.C. § 2253. In order for a certificate of appealability to issue, the applicant must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The findings and recommendation of the Magistrate Judge filed on January 6, 2010, thoroughly address each issue raised in the

petitioner's § 2255 motion. Given that the court found no merit to the petitioner's claims, the standard for issuance of a certificate of appealability has not been met.

The petitioner's Motion to Vacate, Set Aside or Correct Sentence [Docket 96] is **DENIED**. The court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: February 10, 2010


Joseph R. Goodwin, Chief Judge